

REMARKS

In amended Figure 2, the numeral 26 has been amended to denote the screws that may be hand tightened.

Claims 1-2, 4-5, 7-8, and new claim 9 appear in this application for the Examiner's review and consideration.

Claim 1, 2, and 7, have been amended to recite proper antecedent basis for the rotator.

Claims 3 and 6 have been cancelled without prejudice to Applicant's right to file one or more continuing applications directed to any subject matter not presently claimed.

New claim 9 has been entered to indicate that a plurality of rotators comprise the device. No new matter has been added by these amendments and additions.

Objections due to informalities

Claims 1 and 2 were objected to because the plural of rotator is used later in the claim even though only one was previous mentioned. The amended claims correct that confusion.

The objection is therefore believed to have been overcome. Applicant respectfully requests reconsideration and withdrawal thereof.

Rejection Over U.S. Application Publication No. 2002/0178997 to Tsui-Hua

Claims 1-2 and 4-5 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2002/0178997 to Tsui-Hua. Tsui-Hua is generally directed to a flag structure that utilizes a plurality of bearings on either side of a tube which is positioned inside a rotating tube.

For claims to be rejected under 35 U.S.C. § 102(e), each and every element as set forth in the claims of the present invention must be found, either expressively or inherently, in a single prior art reference. Applicant respectfully submits that Tsui-Hua does not disclose all the elements of the claimed invention. Tsui-Hua does not disclose stabilizers on either side of a rotator, stabilizers that have sleeve-like flanges positioned in a telescoping-like relationship to each other. The sleeve-like flanges are the key to the present invention design and are not seen in the prior art.

Accordingly, independent claim1 is believed to be in condition for allowance for at least the reasons set forth above. Moreover, the remaining claims 2 and 4-5 depend from the claims discussed above and add additional features. These claims are believed to be patentable for the totality of the claimed inventions therein and by virtue of their dependence from the independent claims. As such, Applicants respectfully request that the rejection under 35 U.S.C. § 102(e) be reconsidered and withdrawn.

Rejection Over Tsui-Hua In View of U.S. Patent No. 6,389,659 to Jacobs

Claims 3 and 8 were rejected under 35 U.S.C. § 103(a) as being obvious over Tsui-Hua in view of U.S. Patent No. 6,389,659 to Jacobs. Jacobs is generally directed to gate panel attachment and discloses a mounting surface for housing a grommet, but Applicant must respectfully disagree with the Examiner's interpretation that these surfaces could be seen as segmented plastic strips for adding weight to the flag. Jacobs does not address anything like this in the disclosure.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation to modify the reference or combine the teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references when combined must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must be found in the prior art, not in Applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 493, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Jacobs fails to cure the deficiencies of Tsui-Hua. There is no motivation to modify the references or any reasonable expectation of success in their combination.

Additionally, neither reference, alone or in combination, discloses the segmented plastic strips (items 25 in Fig. 8 of the specification) as claimed by the Applicant, and as now recited in 8 of the present invention.

Claim 3 of the present invention has been cancelled, therefore making that rejection moot.

The rejection to claim 8 under 35 U.S.C. § 103(a) is believed to have been overcome for at least the above reasons. Applicants respectfully request reconsideration and withdrawal thereof.

Rejection Over Tsui-Hua In View of U.S. Patent No. 5,809,930 to Brooks

Claim 6 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Tsui-Hua in view of U.S. Patent No. 5,809,930 to Brooks. Claim 6 has been cancelled making this rejection moot.

Rejection Over Tsui-Hua In View of U.S. Patent No. 5,291,849 to Zeitler

Claim 7 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Tsui-Hua in view of U.S. Patent No. 5,291,849 to Zeitler. Zeitler is directed towards a tubing clamp in FIGS. 8 and 9 that affixes about a tube or rod, and not to a slit for sliding a flag panel to be housed. Certainly FIGS. 8 and 9 of Zeitler cannot not be construed as anticipating claim 7 which states “a friction-fitting slit secured by a clamp for affixing flags without use of a rod”.

The rejection to claim 7 under 35 U.S.C. § 103(a) is believed to have been overcome for at least the above reasons. Applicant respectfully requests reconsideration and withdrawal thereof.

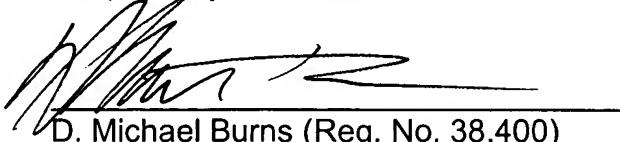
Conclusion

Based on the remarks set forth above, Applicant believes that all of the rejections have been overcome and the claims of the subject application are in condition for allowance. Should the Examiner have any further concerns or believe that a discussion with the Applicants' agent would further the prosecution of this application, the Examiner is encouraged to call the agent at the number below.

No fee is believed to be due for this submission.

Respectfully submitted,

July 7, 2004
Date


D. Michael Burns (Reg. No. 38,400)
(508) 583-7872

Annotated sheet

2/5

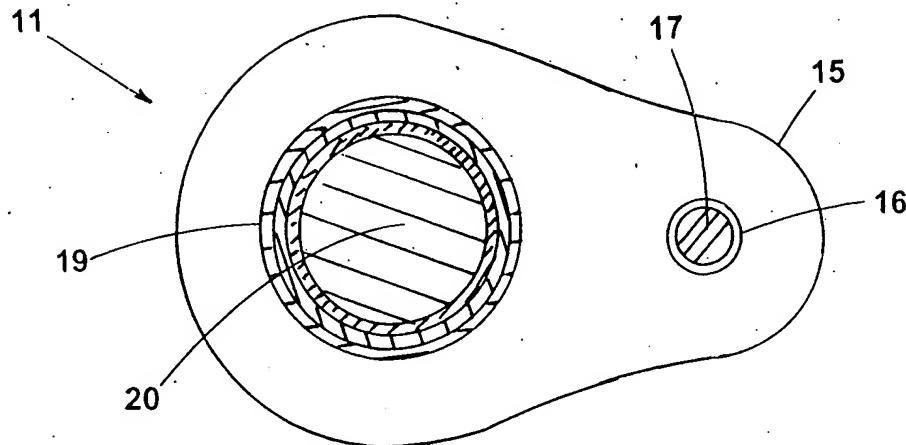


Fig. 3

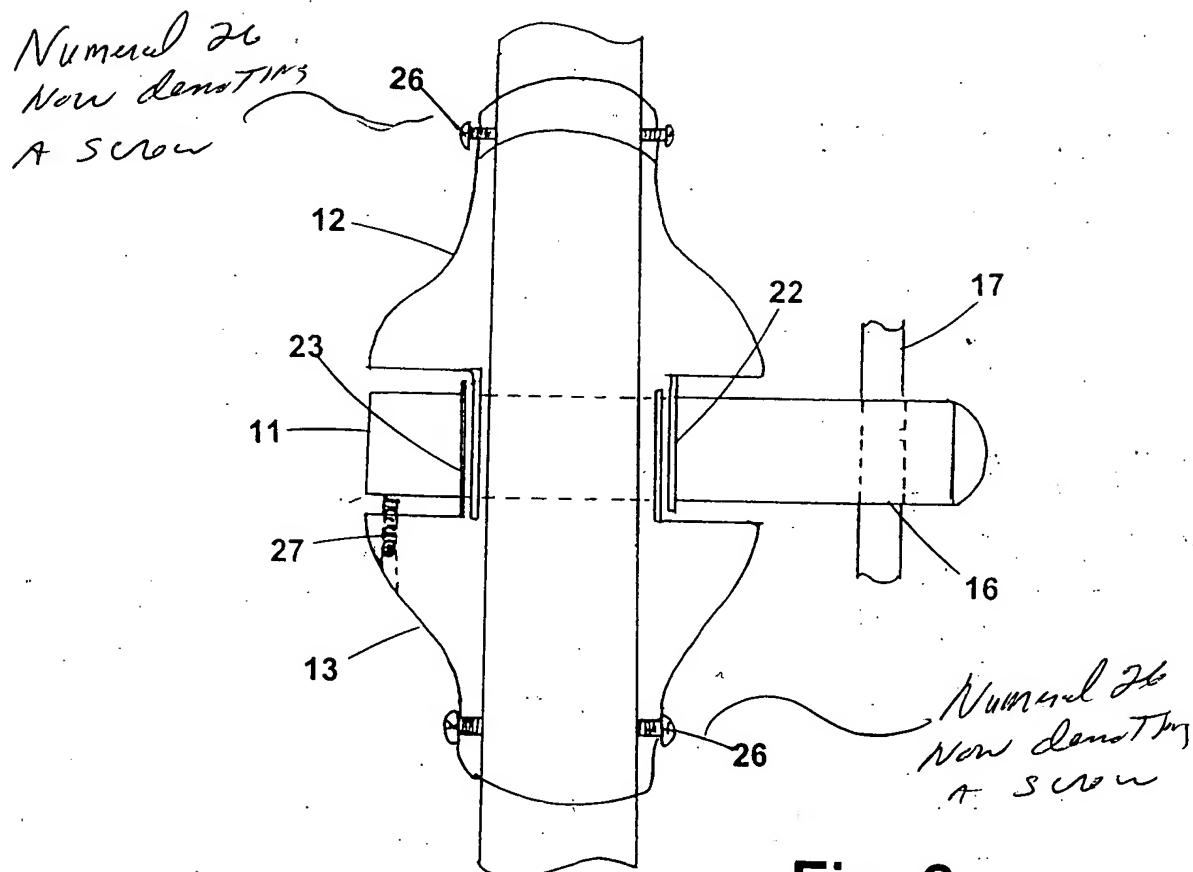


Fig. 2